

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Lewis Bloom,

Plaintiff,

- against -

Asbury Partners, LLC.,

Defendant.

Docket No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Lewis Bloom (“Bloom” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Asbury Partners, LLC. (“Asbury Partners” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Bruce Springsteen and Southside Johnny performing (the “Photograph”), owned and registered by Bloom, a California based professional photographer. Accordingly, Bloom seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New Jersey.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Bloom is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 610 South Main Street Apt. 444, Los Angeles, CA 90014.

6. Upon information and belief, Asbury Partners is a foreign business corporation duly organized and existing under the laws of the State of New Jersey, with a place of business at 1100 Ocean Avenue #F, Asbury Park, NJ 07712. Upon information and belief Asbury Partners is registered with the New Jersey Department of State Division of Corporations to do business in the State of New Jersey. At all times material, hereto, Asbury Partners has owned and operated a website at the URL: www.stoneponyonline.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Bloom photographed Bruce Springsteen and Southside Johnny performing together. A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Bloom is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-103-279, and titled “5.1.04_bricespringsteensouthsidejohnny.jpg”. See Exhibit B.

B. Defendant’s Infringing Activities

10. After publication, Asbury Partners used the Photograph as the banner of the About page on their Website. See URL <http://www.stoneponyonline.com/about/>. The Website

prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit C.

11. Asbury Partners did not license the Photograph from Plaintiff for its article, nor did Asbury Partners have Plaintiff's permission or consent to publish the Photograph on its Website.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Asbury Partners infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Asbury Partners is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Asbury Partners be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: July 27, 2018
Clifton, New Jersey

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